

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Enrique Wayne Hammond,

Plaintiff,

vs

Corporal Jason Fernandes, and the
 Colleton County Sheriff Department,

Defendants.

Civil Action No. 2:12-1128-MGL

OPINION AND ORDER

Plaintiff Enrique Wayne Hammond (“Plaintiff”) brought this action seeking relief pursuant to 42 U.S.C. § 1983. (ECF No. 1.). On August 28, 2012, this Court dismissed without prejudice Plaintiff’s claims against Defendant Corporal Jason Fernandes and Defendant Colleton County Sheriff’s Department as well as Plaintiff’s claims for monetary damages against the Colleton County Sheriff’s Department. Plaintiff’s claim for monetary damages against Defendant Corporal Jason Fernandes was stayed until the final termination of Plaintiff’s pending state court criminal proceedings, subject to the following conditions:

- a. Within twenty-one (21) days of the date the state court criminal proceedings have concluded, Plaintiff must file a motion asking this Court to lift the stay. *See Denton v. Hernandez*, 504 U.S. 25 (1992).
- b. If the criminal proceedings are not concluded within six (6) months of the date that this case is stayed, on August 28, 2012, Plaintiff shall file a status report indicating the expected completion date of the proceeding.

Plaintiff was directed to file additional status reports every six (6) months thereafter until the stay was lifted. Further, Plaintiff was specifically advised that failure to file timely status reports could result

in sanctions, including dismissal of the case for failure to prosecute. Since, the entry of this Court's August 28, 2012 order, Plaintiff has not filed one status report nor has he filed a motion to lift the stay. As such he is in violation of this Court's prior order. Accordingly, Plaintiff's claim for monetary damages against Defendant Corporal Jason Fernandes is hereby DISMISSED without prejudice due to Plaintiff's failure to prosecute and failure to comply with the Court's order.

IT IS SO ORDERED.

/s/ Mary G. Lewis
United States District Judge

May 14, 2013
Spartanburg, South Carolina